

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, DECEMBER 9, 2003**

The Council of the City of San José convened in Regular Session at 9:30 a.m. in Council Chambers at City Hall.

Present: Council Members - Chavez, Chirco, Dando, Gregory, LeZotte, Reed, Williams, Yeager.

Absent: Council Members - Campos, Cortese; Gonzales. (Excused)

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 subsection (a) to consider the case of In Re: Lind; (B) confer with Legal Counsel with respect to anticipated litigation of one (1) matter where there is initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from Closed Session and recessed at 11:10 a.m. and reconvened at 1:34 p.m. in Council Chambers, City Hall.

Present: Council Members - Chavez, Chirco, Gregory, LeZotte, Reed, Williams, Yeager.

Absent: Council Members - Campos, Cortese, Dando; Gonzales. (Excused)

### **INVOCATION**

Pastor Oscar Dace, Bibleway Christian Center recited a scripture of prayer, faith, giving, and clarity of thought.

### **PLEDGE OF ALLEGIANCE**

Mayor Pro Tempore Chavez led the Pledge of Allegiance.

### **ORDERS OF THE DAY**

Upon motion by Council Member LeZotte, seconded by Council Member Yeager, the Orders of the Day and the Amended Agenda were approved. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

## CEREMONIAL ITEMS

### 1.1 **Presentation of a commendation to Dave McPherson, of the City Auditor's Office, for receiving the Bruno Marchetti Award. (Reed)** **(Deferred from 12/2/03 – Item 1.3)**

Documents Filed: None.

Discussion/Action: Mayor Pro Tempore Chavez was joined at the podium by Council Member Reed to recognize David McPherson of the City Auditor's Office, for receiving the Bruno Marchetti Award. Council Member Reed introduced City Auditor Gerald Silva, who stated that Mr. McPherson has been a member of the City Auditor's Office for over 6 years, and stated this is a special recognition lifetime achievement and statewide award. Mr. McPherson has been very active in Sacramento dealing with legislative issues that protects the City of San José's revenue base. Mayor Pro Tempore Chavez presented the award to Mr. McPherson, who accepted it with gratitude.

## CONSENT CALENDAR

Upon motion by Council Member Reed, seconded by Council Member Williams, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

### 2.2 **Final adoption of ordinances:**

#### (a) **ORD. NO. 27025 – Amends Title 17 of the San José Municipal Code by adding a new Chapter 17.82 relating to fire safety during construction.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27025 executed on December 2, 2003, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member Reed, seconded by Council Member Gregory, and carried unanimously, Ordinance No. 27025 was adopted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

#### (b) **ORD. NO. 27029 – Rezones certain real property situated at the southeasterly corner of Monterey Highway and Edenvue Drive to A(PD) Planned Development Zoning District. PDC 03-069**

Documents Filed: Proof of Publication of the title of Ordinance No. 27029 executed on December 5, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27029 was adopted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**2.2 Final adoption of ordinances (Cont'd.)**

- (c) **ORD. NO. 27032 – Rezones certain real property situated at the southeast corner of Blossom Hill and Cottle Roads to IP(PD) Planned Development Zoning District. PDC 02-086**

Documents Filed: None.

Discussion/Action: Mayor Pro Tempore Chavez called for Public Testimony. Alex Marthews, Preservation Action Council spoke in opposition of the issue. Item 2.2(c) was deferred to December 16, 2003.

**2.3 Approval to reject all bids for the Plaza de Cesar Chavez Electrical Upgrades Project and authorization for the Director of Public Works to re-advertise and re-bid the project. CEQA: Exempt, PP03-06-202. Council District 3. (Public Works/ Parks, Recreation and Neighborhood Services)  
(Deferred from 11/18/03 – Item 2.20 and 11/25/03 – Item 2.13)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated October 29, 2003, recommending approval to reject all bids for the Plaza de Cesar Chavez Electrical Upgrades Project and authorize the Director of Public Works to re-advertise and re-bid the project. (2) Supplemental memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated December 2, 2003, transmitting additional information after bids were opened.

Discussion/Action: The rejection of all bids for the Plaza de Cesar Chavez Electrical Upgrades Project was approved, and the Director of Public Works was authorized to re-advertise and re-bid the project. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**2.4 Report on bids and take appropriate action based on the evaluation of bids for the Noble Park Play Area Renovation Project, and approval of a five percent contingency. CEQA: Exempt, PP03-09-284. Council District 4. (Public Works/ Parks, Recreation and Neighborhood Services)  
(Deferred from 11/25/03 – Item 2.11)**

Documents Filed: None.

Discussion/Action: Item 2.4 was deferred to December 16, 2003.

**2.5 Approval of a fifth amendment to lease space with the USO of Northern California, Inc. to relocate the leased premises and to extend the term from June 30, 2005 through June 30, 2008, with no change to the rental rate of \$1.00 per year. CEQA: Resolutions Nos. 67380 and 71451, PP03-07-231. (Airport)**

**2.5 (Cont'd.)**

Documents Filed: Memorandum from Direction of Aviation Ralph Tonseth, dated November 17, 2003, recommending approval of said fifth amendment with the USO of Northern California, Inc.

Discussion/Action: The Fifth Amendment to lease space with the USO of Northern California, Inc. to relocate the leased premises and to extend the term from June 30, 2005 through June 30, 2008, with no change to the rental rate of \$1.00 per year, was approved and its execution authorized. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**2.6 Approval of the seventh amendment to the legal services agreement with Ogden, Gibson, White, and Brooks to increase compensation by \$50,000, for a total not to exceed \$735,000. CEQA: Not a Project. (Board of Administration for the Police & Fire Department Retirement Plan)**

Documents Filed: Memorandum from Secretary, Board of Administration for the Police and Fire Department Retirement Plan Edward Overton, dated November 17, 2003, recommending approval of the said seventh amendment with Ogden, Gibson, White and Brooks.

Discussion/Action: The Seventh Amendment to the legal services agreement with Ogden, Gibson, White and Brooks was approved, and its execution authorized. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**2.7 Approval of two Employee Suggestion awards in the total amount of \$12,884.84. (City Manager's Office)**

Documents Filed: Memorandum from Suggestion Award Program Manager Brooke Myhre, dated November 20, 2003, recommending approval of two Employee Suggestion Program awards in the total amount of \$12,884.84.

Discussion/Action: Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, the of two Employee Suggestion Program awards in the total amount of \$12,884.84 was approved, and its execution authorized. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**2.8 Approval of the re-appointment City of San José Council Member Linda J. LeZotte to the Board of Directors of the Silicon Valley Pollution Prevention Center as the Government for a term from January 1, 2004 through December 31, 2006. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated November 17, 2003, recommending approval of the re-appointment of Linda J. LeZotte to the Board of Directors of the Silicon Valley Pollution Prevention Center as the Government for a term from January 1, 2004 through December 31, 2006.

**2.8 (Cont'd.)**

Discussion/Action: The re-appointment of City of San José Council Member Linda J. LeZotte to the Board of Directors of Silicon Valley Pollution Center was approved and its execution authorized. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**2.9 Adoption of a resolution authorizing the City Manager to negotiate and execute the Reuse and Recycling Agreements with the following non-profit organizations through June 30, 2004.**

- (a) Goodwill Industries of Santa Clara County in an amount not to exceed \$400,000.**
- (b) The Salvation Army in an amount not to exceed \$140,000.**
- (c) St. Vincent de Paul Society in an amount not to exceed \$26,000.**
- (d) Hope Services in an amount not to exceed \$20,000.**

**CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated November 17, 2003, recommendation adoption of said resolution.

Discussion/Action: Resolution No. 71861, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager Execute Reuse and Recycling Agreements with Goodwill Industries of Santa Clara County, The Salvation Army, St. Vincent De Paul Society, and Hope Services for FY 2003-04", was adopted. Vote: 6-0-4-1. Absent: Campos, Cortese, Dando; Gonzales. Disqualified: LeZotte.

- 2.10**
- (a) Approval to award a sole source purchase of 64 Motorola MT2000 portable radios and 73 Motorola Mobile Vehicle Adapters (MVAs) to Motorola C & E, Inc., in the amount of \$113,264.78, including sales tax and delivery, and authorization for the Director of General Services to execute the purchase order. CEQA: Not a Project. (General Services)**
  - (b) Approval to award a sole source purchase of 66 XTS3000 portable radios to Motorola C & E, Inc., for a total amount of \$125,463.34, including tax and delivery, and authorization for the Director of General Services to execute the purchase order. CEQA: Not a Project. (General Services)**

Documents Filed: (1) Memorandum from Director of General Services Jose Obregon, dated November 17, 2003, recommending approval to award a sole source purchase of 64 Motorola MT2000 portable radios and 73 Motorola Mobile Vehicle Adapters (MVAs) to Motorola C & E, Inc., in the amount of \$113,264.78. (2) Memorandum from Director of General Services Jose Obregon, dated November 17, 2003, recommending approval to award a sole source purchase of 66 XTS3000 portable radios to Motorola C & E, Inc., for a total amount of \$125,463.34.

## 2.10 (Cont'd.)

Discussion/Action: Mayor Pro Tempore Chavez called for Public Testimony. William Garbett spoke in opposition to the issue. Upon motion by Council Member Yeager, seconded by Council Member Gregory, and carried unanimously, the award of a sole source purchase of 64 Motorola MT2000 portable radios and 73 Motorola Mobile Vehicle Adapters (MVAs) to Motorola C & E, Inc., in the amount of \$113,264.78, and 66 XTS3000 portable radios to Motorola C & E, Inc., for a total amount of \$125,463.34, were approved, and the Director of General Services was authorized to execute the purchase orders. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

## 2.11 Adoption of a resolution:

- (a) **Accepting the 2003-2004 Hazardous Vegetation Commencement Report compiled by the Office of the Santa Clara County Fire Marshal; and**
- (b) **Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance; and**
- (c) **Directing the Office of the Santa Clara County Fire Marshal to mail notices of a public hearing before the City Council, on January 20, 2004 at 1:30 p.m., to allow property owners of affected real properties to object to inclusion in the Hazardous Vegetation Management Program and proposed removal of weeds and refuse from their properties.**

**CEQA: Not a Project. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 17, 2003, recommending adoption of said resolution.

Discussion/Action: Mayor Pro Tempore Chavez called for Public Testimony. William Garbett spoke in opposition to the issue. Upon motion by Council Member Yeager, seconded by Council Member Reed, and carried unanimously, Resolution No. 71862, entitled: "A Resolution of the Council of the City of San José Accepting and Confirming the Hazardous Vegetation Commencement Report for the Year 2003-2004 Compiled by the Office of the Santa Clara County Fire Marshal; Declaring Certain Noxious or Dangerous Seasonal and Recurrent Weeds Are Growing or Are Likely to Grow Upon Certain Public and Private Properties or That Refuse is Situated or Likely to be Situated Upon Certain Properties Within the City of San José; Declaring Such Seasonal and/or Recurrent Weeds and Refuse a Public Nuisance; and Directing that Notice of This Resolution and a Public Hearing on the Report on January 20, 2004 at 1:30 P.M. Be Given Pursuant to Chapter 9.12 of the San José Municipal Code", was adopted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

## 2.12 Approval of an ordinance amending Part 3 of Chapter 13.48 of Title 13 of the San José Municipal Code to provide for a Historic Preservation Permit Amendment and Historic Preservation Permit Adjustment. CEQA: Exempt, PP03-11-362. (Planning, Building and Code Enforcement)

## 2.12 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 17, 2003, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 27033, entitled: "An Ordinance of the City of San José Amending Part 3 of Chapter 13.48 of Title 13 of the San José Municipal Code to Amend Section 13.48.250 and Add Sections 13.48.330 and 13.48.340 to Provide for Historic Preservation (HP) Permit Amendments and HP Permit Adjustments", was passed for publication. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

## 2.13 **Report on bids and award of contract for the Norman Y. Mineta San José International Airport North Concourse Site Facility Relocation Project to the low bidder, Hinds/Lowery-JV in the amount of \$188,000, and approval of a contingency in the amount of \$28,200. CEQA: Resolution Nos. 67380 and 71451, PP03-10-330. (Public Works/Airport)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, and Direction of Aviation Ralph Tonseth, dated November 17, 2003, recommending award of the contract, with related contingency, to the low bidder Hinds/Lowery-JW, in the amount of \$188,000, for the Norman Y. Mineta San José International Airport North Concourse Site Facility Relocation Project. (2) Supplemental memorandum from Director of Public Works Katy Allen, and Direction of Aviation Ralph Tonseth, dated December 2, 2003, transmitting additional information after the bids were opened.

Discussion/Action: The award of the contract to the low bidder Hinds/Lowery-JW, in the amount of \$188,000, with related contingency, for the Norman Y. Mineta San José International Airport North Concourse Site Facility Relocation Project was approved, and its execution authorized. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

## 2.14 **Adoption of a resolution summarily vacating a portion of the 15-foot wide Regional Trail Easement lying within Lot 90, Tract 8715 and Lot 128, Tract 8468 located on the northeasterly side of Country Club Parkway, between Assisi Court and Glen Eagles Drive. CEQA: Silver Creek Valley Country Club EIR, adopted October 4, 2003, Resolution No. 61784, PDC91-065. Council District 8. (Public Works)**

Documents Filed: None.

Discussion/Action: Item 2.14 was deferred to December 16, 2003.

## 2.15 **Adoption of a resolution summarily vacating the entire 30 foot wide Ingress and Egress Easement and the Public Service and Utility Easement (PSUE) lying within the parcels located at the southeast corner of Evans Lane and Highway 87, also known as 1848 Evans Lane. CEQA: Mitigated Negative Declaration, PDC02-068. Council District 6. (Public Works)**

**2.15 (Cont'd.)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 17, 2003, recommending adoption of said resolution.,

Discussion/Action: Mayor Pro Tempore Chavez called for Public Testimony. William Garbett spoke in opposition to the issue. Upon motion by Council Member Yeager, seconded by Council Member Reed, and carried unanimously, Resolution No. 71863, entitled: "A Resolution of the Council of the City of San José Summarily Vacating the 30 Foot Wide Public Service Utility Easement and Ingress and Egress Easement on the East Side of Evans Lane South of Highway 87", was adopted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**2.16 Approval of an appointment to the Downtown Parking Board. (Mayor)  
(Rules Committee referral 12/3/03)**

Documents Filed: Memorandum from Mayor Gonzales, dated December 2, 2003, recommending approval of Captain Marianne Alvarez as the San José State University Representative to the Downtown Parking Board.

Discussion/Action: The appointment of Captain Marianne Alvarez as the San José State University Representative to the Downtown Parking Board was approved and its execution authorized. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**2.17 Adoption of a resolution authorizing the City Manager to submit a grant application to the Murray-Hayden Urban Parks and Youth Service Program in the amount of \$2.5 million for the Tully-Senter School Hub Project, to accept the grant if awarded, and execute all related documents. CEQA: Exempt, PP03-12-370. Council District 7. (Parks, Recreation and Neighborhood Services)  
(Rules Committee referral 12/3/03)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated December 9, 2003, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Gregory, seconded by Council Member LeZotte, and carried unanimously, Resolution No. 71864, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application for Murray-Hayden Program Grant Funds Under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 for the Tully-Senter School Hub Project In An Amount Not To Exceed \$2.5 Million, To Accept the Grant if Awarded, and To Execute all Related Documents", was adopted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**END OF CONSENT CALENDAR**



## **STRATEGIC SUPPORT SERVICES**

### **3.2 Report of Rules in Lieu – November 26, 2003 Vice Mayor Dando, Chair**

Documents Filed: Report of the In-Lieu Rules/Agency Rules Committee dated November 26, 2003.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting.
- (b) City Council
  - (1) Review December 9, 2003 Draft Agenda  
Action was taken to recommend approval of December 9, 2003 City Council Agenda.
    - a. Additions/Changes  
  
City Council approval of an ordinance for the transfer of certain Agency functions to the City of San José.
  - (2) Add New Items to December 2, 2003 Amended Agenda  
  
Action was taken to recommend the following additions to the December 2, 2003 City Council Agenda:
    - a. Resolution to authorize submission of Historical Heritage Grant application to the County of Santa Clara to move St. James Park's historic monuments per the Master Plan. (Chavez)
    - b. Accept the City Auditor's Monthly Report. (City Auditor)
    - c. During the evening session, to be heard concurrently with Item 12.2(b); Adopt a resolution by the Redevelopment Agency Board approving a Development Agreement with eBay, Inc. (City Manager)
  - (3) List of Reports Outstanding. Attachment: Report from City Manager, dated November 25 2003, transmitting reports outstanding for December 2, 2003.  
  
The Committee noted and filed the City Manager's Report.
- (c) Legislative Update
  - (1) State - There was no report.
  - (2) Federal - There was no report.
- (d) Meeting Schedules - There were none.

**3.2 Report of Rules in Lieu – November 26, 2003 (Cont'd.)  
Vice Mayor Dando, Chair**

- (e) The Public Record - There was no Public Record.
- (f) Appointment to Boards, Commissions and Committees - There were none.
- (g) Council Referrals for Assignment to Administration or Council Appointee.  
  
There were none.
- (h) Administrative Reviews, and Approvals - There were none.
- (i) Oral communications - None were presented.
- (j) Adjournment - The Meeting was adjourned at 11:15 a.m.

Discussion/Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, and carried unanimously, the Rules in Lieu Committee Report, and the actions of November 26, 2003, were accepted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

**3.4 Acceptance of annual reports issued by Citizen Oversight Committees regarding Bond Funded Programs.**

- (a) **Annual Status Report on Neighborhood Library Bond Program.**
  - (b) **Annual Financial Report on Public Safety Bond Program.**
  - (c) **Annual 2002-03 Annual Report of the Safe Parks and Recreation Bond Program.**
- (Citizen Oversight Committees)**

Documents Filed: (1) Memorandum from Chairman, San José Library Commission Timothy Karas, dated November 21, 2003, recommending acceptance of the Annual Status Report on the Neighborhood Library Bond Program. (2) Memorandum from Chairman, Public Safety Bond, Citizen Oversight Committee, Phyllis Lazzarini, dated November 12, 2003, recommending acceptance of the Annual Financial Report on Public Safety Bond Program. (3) Memorandum from Chairman, Parks and Recreation Commission for Safe Neighborhood Parks and Recreation Bond Projects, dated November 24, 2003, recommending acceptance of the Annual 2002-03 Annual Report of the Safe Parks and Recreation Bond Program.

Discussion/Action: The Annual Status Report on the Neighborhood Library Bond Program, the Annual Financial Report on Public Safety Bond Program, and the Annual 2002-03 Annual Report of the Safe Parks and Recreation Bond Program, were accepted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

## ECONOMIC AND NEIGHBORHOOD DEVELOPMENT

### 4.2 Report of the Driving a Strong Economy Committee – November 24, 2003 Council Member Williams, Chair

Documents Filed: The Driving a Strong Economy Committee Report dated November 24, 2003.

- (a) Discussion on the Small Business Policies/Programs. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated November 10, 2003, transmitting the Small Business Policies/Programs Report.

The Committee accepted the Staff Report.

- (b) Proposed amendments to the Sign Code to reduce and simplify sign regulations in industrial and commercial zones. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 7, 2003, recommending adoption of proposed ordinance.

The Committee accepted the Staff Report. See Item 4.4 for Council Action to be taken.

- (c) Oral petitions - There were none.
- (d) Adjournment - The Meeting was adjourned at 2:40 p.m.

Discussion/Action: Upon motion by Council Member Williams, seconded by Council Member LeZotte, and carried unanimously, the Driving a Strong Economy Committee Report, and the Actions of November 24, 2003, were accepted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

- 4.3
    - (a)
      - (1) **Approval of an ordinance repealing Ordinance No. 23523 which will transfer the Executive Director of the Redevelopment Agency's development permitting authority to the Director of the City of San Jose's Department of Planning, Building and Code Enforcement; and,**
      - (2) **Adoption of a resolution by the City Council amending the 2003-04 Schedule of Fees and Charges by repealing Section 3A of that resolution relating to Redevelopment Agency development permitting fees.**
    - (b) **Adoption of a resolution by the Redevelopment Agency Board acknowledging the transfer of the Executive Director's permitting authority to the Director of Planning, Building, and Code Enforcement.**
- (City Attorney's Office)

#### 4.3 (Cont'd.)

Documents Filed: None.

Discussion/Action: Item 4.3 was renumbered to Item 10.2.

#### 4.4 **Approval of an ordinance amending Title 23 of the San José Municipal Code to reduce and simplify sign regulations in industrial and commercial zones. CEQA: Exempt, PP03-11-357. (Planning, Building and Code Enforcement) [Driving a Strong Economy Committee referral 11/24/03 – Item 4.2(b)]**

Documents Filed: (1) Memorandum from Assistant to the City Manager Deanna Santana, dated December 3, 2003, transmitting Report of the Proposed Amendments to Title 23, the Sign Code, Streamlining the Sign Regulations in Commercial and Industrial Zoning Districts from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 7, 2003. (2) Email from the public, dated December 3, 2003.

Discussion/Action: Council Member Williams stated the Driving a Strong Economy Committee approved the recommendations brought forth by Staff. Council Member Williams moved approval of the Staff recommendation. Council Member LeZotte seconded the motion. Council Member LeZotte expressed concern regarding Page 2, Free-Standing Signs, Item 1, which is the change from the threshold for free-standing signs with the street frontage of 100 feet to 85 feet. She stated the public has not asked to have this item changed, and asked her colleagues' support to defer this particular issue until there is a request from local businesses. She expressed concern for this particular issue as it relates to Winchester, Saratoga, and Stevens Creek because of the numerous billboards in close proximity of each other, and allowing for the potential of blight. She requested Staff move forward with the other items, except this particular issue, to return to Council at a later date. Council Member Williams accepted Council Member LeZotte's amendment to the motion. Director of Planning, Building and Code Enforcement Stephen Haase replied Staff would review what types of requests are being received for these slightly smaller properties to verify if there is some demand from the business community.

Council Member Reed suggested Staff should proactively determine whether there is a market for this issue, rather than say no, as this is a chance for the smaller businesses to have a free-standing sign. Director of Planning, Building and Code Enforcement Stephen Haase replied there are other properties in the City but the question was just to respond directly to Council Member LeZotte for that particular part of her district. He stated there will be other commercial streets that will have any number of properties that could take advantage of this, and stated Staff will continue outreach with the sign industry and the Chamber of Commerce to see if there is some interest.

#### 4.4 (Cont'd.)

Mayor Pro Tempore Chavez recalled the extensive changes to the sign ordinances a few months earlier when Council had requested a report back from Staff, asked when did Staff anticipate bringing forward that formal report. Director of Planning, Building and Code Enforcement Stephen Haase replied Staff would have to follow up on that report, and to return to Council. Mayor Pro Tempore Chavez stated it might be a good idea to move with the direction that her colleagues are asking as it relates to the changes from today but also to do outreach in regard to the impacts the ordinance changes already have had, in terms of what requests Staff is receiving. On a call for the question, the motion carried unanimously, and Ordinance No. 27034, entitled: "An Ordinance of the City of San José Amending Section 23.02.1010 of Chapter 23.02 and Sections 23.04.020, 23.04.030, and 23.04.040 of Chapter 23.04, All of Title 23 of the San José Municipal Code Streamline Signage Regulations in Industrial and Commercial Zoning Districts", was passed for publication, with Item 1, Free-Standing Signs, to eliminate the reference to 85 feet, and Staff to report back to Driving a Strong Economy Committee within 9 months regarding the need for this regulation. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

### ENVIRONMENTAL & UTILITY SERVICES

#### 7.1 **Report on bids and award of contract for the Monterey-Riverside Sanitary Sewer Rehabilitation Phase III Project (Rebid) to the low bidder, Gelco Services, Inc. in the amount of \$1,289,329, and approval of a contingency in the amount of \$128,900. CEQA: Exempt, PP01-08-138. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 17, 2003, recommending award of contract to the low bidder, Gelco Services, Inc., with related contingency, for the Monterey-Riverside Sanitary Sewer Rehabilitation Phase III Project.

Discussion/Action: Upon motion by Council Member Williams, seconded by Council Member Gregory, and carried unanimously, the award of the contract to the low bidder, Gelco Services, Inc., with related contingency, for the Monterey-Riverside Sanitary Sewer Rehabilitation Phase III Project, was approved and its execution authorized. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

## **PUBLIC SAFETY SERVICES**

- 9.1 Approval of an award to purchase an additional quantity of 85 Mobile Data Computers (MDCs) with color touch screen display, keyboard and wireless network card to Data911 Mobile Data Systems ("Data911") of Alameda, CA, for a total cost of \$457,814 including sales tax, and authorization for the Director of General Services to execute the purchase order. CEQA: Not a Project. (General Services)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated November 17, 2003, recommending approval of award to (MDCs) with color touch screen display, keyboard and wireless network card to Data911 Mobile Data Systems ("Data911") of Alameda, CA, for a total cost of \$457,814 including sales tax, and authorization for the to execute the purchase order.

Discussion/Action: Mayor Pro Tempore Chavez called for Public Testimony. William Garbett spoke in opposition of the issue. Acting Fire Chief Dale Foster stated there is a new frequency in the Fire Department that the Police, Fire, and Emergency Medical Services can turn to, and talk simultaneously. He stated it is a great improvement to day-to-day operations from a communications standpoint, to delivering service, and improving capabilities if there were to be a significant natural disaster or a terrorist event. Council Member Williams asked if this eliminates the need for the dispatcher to sit with a map in front of them in order to locate positions, and what the new system entails. Supervisor of Public Safety Dispatch James Seymour replied the Mobile Data Computers (MDC) are a part of an overall project to upgrade the computer aided dispatch system. Supervisor Seymour stated the new system is a map base system, and the Police Department is upgrading MDCs in all police vehicles, and the Fire Department is adding MDCs to all Fire Department vehicles. He stated the major advance is that all the departments will have Automated Vehicle Location (AVL), and will be able to recommend the closest fire engine. He stated there is also a road closure module that enables the dispatchers to close down roads, and route vehicles around, as they receive the information. Upon motion by Council Member Yeager, seconded by Council Member Reed, and carried unanimously, the award to purchase an additional quantity of 85 Mobile Data Computers for a total cost of \$457,814 was approved and the Director of General Services was authorized to execute the purchase order. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

- 9.2 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Michael Ross-Charles Drulis Architects and Planners, Inc., d.b.a. RossDrulisCusenbery Architecture, Inc., for consultant services including program verification and conceptual design services for the new Police Department Southside Substation Project, from the date of execution to March 29, 2004, in the amount of \$162,405. CEQA: Not a Project. (Public Works/Police)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Acting Chief of Police Thomas Wheatley, dated November 24, 2003, recommending adoption of said resolution.

## 9.2 (Cont'd.)

Discussion/Action: Upon motion by Council Member Williams, seconded by Council Member Gregory, and carried unanimously, Resolution No. 71865, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Michael Ross-Charles Drulis Architects and Planners, Inc. DBA RossDrulisCusenbery Architecture, Inc. for the New Police Department Southside Substation Project, In An Amount Not To Exceed \$162,405”, was adopted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:24 p.m. to consider items 10.1 and 10.2 in a Joint Session.

### **10.1 Acceptance of the quarterly report on the Citywide Capital Improvement Program (CIP) including park, library, and public safety bond projects and Strong Neighborhoods Initiative (SNI) Projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)**

Documents Filed: (1) The Quarterly Status Report, Citywide Capital including the Park, Library, Public Safety Bond and Strong Neighborhood Initiative Projects, dated December 9, 2003. (2) Staff Slide Presentation of the Citywide CIP Status Report.

Discussion/Action: Deputy City Manager Terry Roberts gave a slide presentation of the Citywide Capital Improvement Program. Council Member Gregory stated earlier this year he asked for the projects to be broken down by Districts in order to be able to track them easier, and noticed the Project Records on Page 8 through Page 16 were broken down by District, and asked if Staff would facilitate the same strategy for the categories in Figure 4.4 through 4.9. Council Member Gregory asked what is the criteria Staff uses to determine which projects on Page 17 will be deferred, and is Staff returning with recommendations or criteria. Deputy City Manager Terry Roberts replied Staff will return with recommended criteria, and at the appropriate point, would apply the criteria to the projects. He stated as Staff moves into the budget process, early feedback will be forthcoming on these issues. Council Member Gregory stated that the Sports Complex, Shady Oaks and Singleton are bonds projects and as far as the Office of Economic Management is concerned, and in discussions with Parks Recreation and Neighborhood Services, Staff is looking at developing facilities that are complete cost recovery, and if that is the case, asked why is Staff pushing these projects out. Deputy City Manager Terry Roberts replied that further study needs to be done on this but if it were clearly a full cost recovery strategy, it certainly would not have as great an impact or concern in the budget process. Council Member Gregory stated he is aware that there are studies ongoing now, and asked if that information would be included into this criteria when Staff returns with recommendations, and Deputy City Manager Terry Roberts replied yes.

## 10.1 (Cont'd.)

Council Member Gregory stated in regard to Page 3 of the Summary of 2004 - 2008 Capital Improvement Projects, the annual program number as per the last report was 163, and currently it is 174, but there is no indication of what new programs have been added. Deputy City Manager Terry Roberts replied the programs change from year to year, and Staff has added several different programs in the Aviation Department this year, and a list of those programs will be provided to Council. Council Member Gregory stated the last time he saw this report, Bellevue Park and Towers Lane were shown as on hold, and there was a commitment to update those, because Towers Lane was already funded, but he noted that Bellevue Park is still pending. Deputy City Manager Terry Roberts replied Bellevue Park is on the scheduled pending list relating to Parks Recreation and Neighborhood Services, and the schedules will be available after their joint monthly meeting tomorrow, and Staff will be forwarding a schedule for those projects. Upon motion by Council Member Gregory, seconded by Council Member Williams, and carried unanimously, the Citywide Capital Improvement Program including Park, Library, Public Safety Bond and Strong Neighborhood Initiative Projects, was accepted. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

- 10.2 (a) (1) **Approval of an ordinance repealing Ordinance No. 23523 which will transfer the Executive Director of the Redevelopment Agency's development permitting authority to the Director of the City of San Jose's Department of Planning, Building and Code Enforcement; and,**
- (2) **Adoption of a resolution by the City Council amending the 2003-04 Schedule of Fees and Charges by repealing Section 3A of that resolution relating to Redevelopment Agency development permitting fees.**
- (b) **Adoption of a resolution by the Redevelopment Agency Board acknowledging the transfer of the Executive Director's permitting authority to the Director of Planning, Building, and Code Enforcement.**
- (City Attorney's Office)

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Executive Director Susan Shick, dated December 5, 2003, recommending approve said ordinance repealing Ordinance No. 23523, adopt said resolution, and Redevelopment Agency Board adopt said resolution.

Discussion/Action: Mayor Pro Tempore Chavez called for Public Testimony. William Garbett spoke in opposition of the issue. Council Member LeZotte thanked Staff for the information on how the structure of the Agency and the City was changed in 1990. She stated support of the issue of transferring the limited portion of the Agency's processing permit applications to the Director of Planning, but expressed concern about the merging of the two Agencies, the entrepreneurial spirit of the Agency versus the Regulatory spirit of the City, and stated opposition to the entities becoming completely merged. Mayor Pro Tempore Chavez replied according to the report, if this issue is moved forward today,



## 10.2 (Cont'd.)

it will become final in January 2004, and asked for the City Manager and the Interim Director of RDA to return with a report back at that final time on how the staffing is going to work. Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and unanimously carried, Ordinance No. 27035, entitled: "An Ordinance of the City of San José Repealing Ordinance No. 23523 To Transfer the Permitting Authority in the Downtown Core and Julian-Stockton Area from the Executive Director of the Redevelopment Agency to the Director of the City's Planning Building Code Enforcement Department", was passed for publication; and Resolution No. 71866, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71603 to Repeal Special Fees for the Downtown Core and the Julian-Stockton Redevelopment Area Effective January 16, 2004"; and Redevelopment Agency Resolution, were adopted; the City Manager, and Redevelopment Agency Interim Director was directed to report back in January 2004 regarding how the staffing will be implemented between the two entities. Vote: 7-0-4-0. Absent: Campos, Cortese, Dando; Gonzales.

The Redevelopment Agency Board portion of the meeting was adjourned at 2:43 p.m.

### CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of December 9, 2003:

A. Authority to Enter Litigation Case as *Amicus Curiae*:

Case Name: City of Los Angeles, et al. v. State Water Resources Control Board, et al.

Adverse Party or parties: State Water Resources Control Board

Substance of Litigation: The City agreed to join an *amicus curiae* brief supporting the City of Los Angeles in a Supreme Court review of an appellate decision upholding wastewater discharge permits issued to the cities, and finding that the permit decisions did not need to take into account economic costs and environmental effects of implementing the permit requirements.

Council Vote: Ayes: Cindy Chavez, Judy Chirco, Pat Dando, Terry Gregory, Linda LeZotte, Chuck Reed, Forrest Williams, Ken Yeager.

Noes: None.

Disqualified: None.

Absent: Nora Campos, David Cortese; Ron Gonzales.

## **NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

None.

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

None.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 2:44 p.m.

**CINDY CHAVEZ, MAYOR PRO TEMPORE**

**ATTEST:**

**DEANNA J. SANTANA, CITY CLERK**

smd/12-09-03min